

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**HARRISON COUNTY
SANITARY DISPOSAL
PROJECT;
Permit 43-SDP-5-94P**

**ADMINISTRATIVE CONSENT
ORDER**

**NO. 2007-SW- 12
No. 2007-WW- 20**

**TO: Dan Barry
Landfill Manager
PO Box 121
Logan IA 51546**

I. SUMMARY

This administrative consent order (Order) is entered into between the Iowa Department of Natural Resources (Department) and the Harrison County Sanitary Disposal Project (SDP) to address a discharge of leachate by the Harrison County SDP to a water of the state. Pursuant to this Order, the Harrison County SDP shall pay an administrative penalty of \$980.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Allan Bertelsen
Field Office #4
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, Iowa 50022
Ph: 515-725-0268

Relating to this Order to:

Jon C. Tack, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 (water quality) and the rules promulgated or permits issued pursuant thereto; Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules adopted pursuant

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to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The Harrison County SDP owns and operates a sanitary landfill located near Logan, Iowa pursuant to Department permit #43-SDP-5-94P. The Harrison County SDP is a municipal solid waste landfill. The Harrison County SDP collects leachate in a 10,000 gallon storage tank. The leachate is transported to a wastewater treatment plant for disposal or is applied back onto the fill area for leachate recirculation.

2. On April 10, 2007, the Department received a complaint alleging that the Harrison County SDP was intentionally pumping leachate directly to a stream.

3. On May 4, 2007, the Department investigated the complaint. The complaint was verified. A review of records indicated that approximately 8,000 gallons of leachate had been pumped to a drainage ditch. This action apparently occurred due to a miscommunication between landfill management staff and the employee or employees instructed to pump the leachate. A Notice of Violation was issued on May 10, 2007.

4. Leachate from a sanitary disposal project contains pollutants and the discharge of such leachate to a water of the state is likely to violate water quality standards.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-121.

2. Pursuant to Special Provision 8(a) of Permit #43-SDP-5-94P, leachate from the Harrison County SDP may be discharged only if authorized by an NPDES permit. In this case, no NPDES permit has been issued to discharge leachate and therefore, pursuant to Special Provision 8(a), the leachate must be delivered to a publicly owned treatment works in either the City of Woodbine or the City of Missouri Valley.

3. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit.

4. Iowa Code section 455B.173(3) requires the Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC chapters 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit.

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V. ORDER

The Department and the Harrison County SDP agree and the Harrison County SDP is hereby ordered to pay an administrative penalty in the amount of \$980 at the time of execution of this Order.

VI. PENALTY

1. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000 per day for solid waste violations. Iowa Code sections 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the water quality violations involved in this matter. Criminal sanctions are also provided for discharge violations.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10.

a. Economic Benefit. The Harrison County SDP has achieved an economic benefit by discharging leachate into a water of the state. The normal cost of disposal of leachate from the Harrison County SDP is \$.01 per gallon. Therefore \$80 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. The regulations violated by the Harrison County SDP are designed to protect the surface water of the state. The direct discharge of leachate to a water of the state is likely to cause the violation of water quality standards. Water quality standards are designed to protect aquatic life. Fortunately, in this case, the leachate was relatively low strength. In order to resolve this matter consensually, the Department has agreed to the assessment of \$400 for this factor.

c. Culpability. The disposal of leachate is a routine part of the normal operation of a municipal solid waste landfill. There is no satisfactory explanation for an employee of this or any landfill believing that the intentional discharge of leachate to a water of the state is an acceptable and lawful practice. Mitigating factors include the lack of serious operational deficiencies at the Harrison County SDP and the fact that the landfill manager was forthcoming and cooperative in regard to the investigation of this incident. The Harrison County SDP has taken steps to ensure that employees are instructed in regard to proper leachate management procedures. Based upon these considerations, only \$500 is assessed for this factor.

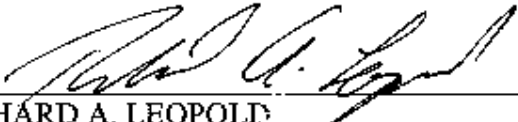
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VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 455B.308 and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Hamilton County SDP. By signature to this Order, all rights to appeal this Order are waived.

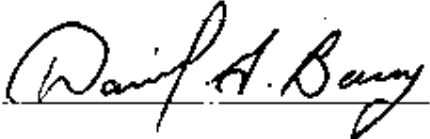
VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.191 and 455B.307. Compliance with provision "V. Order" of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order. The Department reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



RICHARD A. LEOPOLD
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 1 day of
November, 2007



HARRISON COUNTY SANITARY DISPOSAL PROJECT October, 2007

Field Office #4; Jon Tack; Arnie Davidson; LC(1)